

FINAL ORDER

DATE 11/3/10

IN THE MATTER OF

* BEFORE THE

TAUNYA P. MCGEE,

* COMMISSIONER OF

* FINANCIAL REGULATION

Applicant.

* OAH NO.: DLR-CFR-76B-10-13015

* * * * *

PROPOSED ORDER

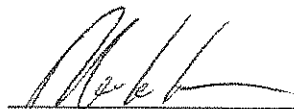
The Proposed Decision of the Administrative Law Judge in the captioned case having been considered in its entirety, it is **ORDERED** by the Commissioner of Financial Regulation (the "Commissioner") this 3rd day of September, 2010 that the Proposed Decision shall be and hereby is adopted as a Proposed Order.

Pursuant to COMAR 09.01.03.09, Applicant has the right to file exceptions to the Proposed Order and present arguments to the Commissioner. Applicant has twenty (20) days from the postmark date of this Proposed Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). The date of filing exceptions with the Commissioner is the date of personal delivery to the Commissioner or the postmark date on mailed exceptions. COMAR 09.01.03.09A(2).

Unless written exceptions are filed within the twenty (20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner.

COMMISSIONER OF FINANCIAL REGULATION

By:



Mark Kaufman

Deputy Commissioner of Financial Regulation

TAUNYA P. MCGEE,

APPLICANT

v.

COMMISSIONER OF FINANCIAL

REGULATION

* BEFORE LORRAINE E. FRASER,

* AN ADMINISTRATIVE LAW JUDGE

* OF THE MARYLAND OFFICE OF

* ADMINISTRATIVE HEARINGS

* OAH CASE No: DLR-CFR-76B-10-13015

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PROPOSED DECISION

STATEMENT OF THE CASE
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STATEMENT OF THE CASE

On February 26, 2010, the Maryland Commissioner of Financial Regulation (CFR), Department of Labor, Licensing and Regulation, denied the Applicant's renewal application for a mortgage loan originator license. On March 5, 2010, the Applicant filed an appeal. On March 24, 2010, the CFR referred the matter to the Office of Administrative Hearings (OAH) for a hearing and to issue proposed findings of fact and conclusions of law, and a recommended order.

I held a hearing on June 29, 2010, at the OAH in Hunt Valley, Maryland. Md. Code Ann. Fin. Inst. § 11-608 (Supp. 2009). Jedd Bellman, Staff Attorney, Office of the Attorney General, represented the CFR. The Applicant represented herself.

Procedure in this case is governed by the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009); OAH's Rules of Procedure, Code of Maryland Regulations (COMAR) 28.02.01; and the Rules of Procedure of the Department, COMAR 09.01.03.

ISSUE

The issue is whether the CFR properly denied the Applicant's renewal application for a mortgage loan originator license.

SUMMARY OF THE EVIDENCE

Exhibits

The CFR introduced the following documents, which I admitted into evidence:

- CFR Ex. 1. Notice of Hearing, May 19, 2010
- CFR Ex. 2. Letter of delegation from the Deputy of CFR to the OAH, March 24, 2010
- CFR Ex. 3. Notice of denial from Anne E. Ecker, CFR, to the Applicant, February 26, 2010
- CFR Ex. 3A Receipts for Certified Mail, received February 27, 2010
- CFR Ex. 3B Request for hearing from the Applicant to the CFR, received March 5, 2010
- CFR Ex. 4. Applicant's licensing information, June 25, 2010
- CFR Ex. 5. Applicant's application information, December 29, 2009
- CFR Ex. 6. NASD Letter of Acceptance, Waiver, and Consent, December 10, 2002
- CFR Ex. 7. Disciplinary and other NASD actions, February 2003
- CFR Ex. 8. Applicant's explanation to questions answered yes, February 17, 2010
- CFR Ex. 9. E-mails between the Applicant and Michelle Pendleton, CFR, January and February 2010
- CFR Ex. 10. Sample application, July 13, 2006

The Applicant did not submit any exhibits into evidence.

Testimony

The Applicant testified on her own behalf and presented the testimony of Joi Grady, her former business partner.

The CFR presented the testimony of Anne E. Ecker, Director of Licensing, CFR; and Derris Gray, Administrative Specialist, CFR.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. From April 20, 2001 to May 31, 2002, the Applicant was registered with Citicorp Investment Services as an Investment Company and Variable Contracts Products Representative. She was also employed with a bank affiliated with Citicorp Investment Services. Citicorp Investment Services is a member of the National Association of Security Dealers (NASD).
2. Between October 2001 and March 2002, the Applicant made multiple unauthorized withdrawals from a checking and/or savings account owned by a bank customer totaling \$4,380 and used the funds for her own benefit.
3. Also between October 2001 and March 2002, the Applicant submitted two loan applications for two separate customers, without the customers' knowledge or consent. The Applicant falsely sought a \$3,200 loan in one customer's name and a \$3,000 loan in the other customer's name. The Applicant had the loan proceeds paid to her and used the funds for her own benefit.
4. On September 12, 2002, October 3, 2002, and October 30, 2002, NASD sent to the Applicant letters requesting information and documents. Initially, the Applicant failed to

respond by the due dates specified. On November 12, 2002, the Applicant submitted a written response that did not respond substantively to three questions that sought information critical to NASD's investigation.

5. On December 10, 2002, the Applicant signed a NASD Letter of Acceptance, Waiver, and Consent in which she agreed to be barred from association with any NASD member in any capacity.
6. On March 19, 2009, the Applicant applied for a mortgage originators license. On July 21, 2009, the Applicant was granted the license, which expired December 31, 2009.
7. The Applicant did not meet the qualifications for a mortgage originators license in July 2009; the license was granted to her in error.
8. The Applicant does not currently meet the qualifications for a mortgage originators license.

DISCUSSION

The CFR may not issue a mortgage originator license unless the applicant "has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently." Md. Code Ann., Fin. Inst. § 11-605(a)(3) (Supp. 2009). The CFR denied the Applicant's renewal application because it determined that the Applicant did not demonstrate financial responsibility, character or general fitness when she converted over \$10,000 of client funds to her own use in 2001 and 2002. The CFR argued that it granted a mortgage originator license to the Applicant in July 2009 in error. The CFR explained that although the Applicant answered yes to certain questions on her original application, she failed to provide the required explanation. The CFR explained further that the yes answers were overlooked and her license was granted in error.

The Applicant agreed that she did not demonstrate financial responsibility, character or general fitness in 2001 and 2002 but argued that she has done so since. She acknowledged that what she did was wrong but explained that she had changed and should not be punished for the rest of her life. She maintained that she honestly answered the questions on the application and provided all of the information requested of her. She stated that she opened her own mortgage company in 2006 and has only her clients' interests at heart. She stated further that she has not had any complaints against her.

For the reasons that follow, I find that the CFR properly denied the Applicant's application. Between October 2001 and March 2002, the Applicant made multiple unauthorized withdrawals from a checking and/or savings account owned by a bank customer totaling \$4,380 and used the funds for her own benefit. In addition, the Applicant submitted two loan applications for two separate customers, without the customers' knowledge or consent. The Applicant falsely sought a \$3,200 loan in one customer's name and a \$3,000 loan in the other customer's name. The Applicant had the loan proceeds paid to her and used the funds for her own benefit. After a NASD investigation, the Applicant did not dispute NASD's findings and agreed to be barred from association with any NASD member in any capacity. The Applicant's conduct in 2001 and 2002 did not demonstrate financial responsibility, character, or honesty. The Applicant held a position of trust as a bank employee and used that position to steal money from bank customers. Further, the Applicant's dishonest conduct was less than ten years ago. Notably, when asked, the Applicant admitted that she did not make any restitution of the funds she stole. She stated that she was told the bank would handle that. While the bank may have returned the stolen money to its customers and taken whatever action was necessary to reverse the unauthorized loans, the Applicant retained over \$10,000 that was not hers. Such conduct does not show that the

Applicant has taken full responsibility for her actions. Thus, I conclude that the CFR properly denied the Applicant's application for a mortgage originator license.

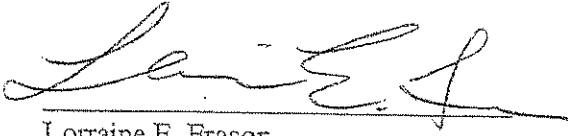
CONCLUSIONS OF LAW

I conclude as a matter of law that the CFR properly denied the Applicant's renewal application for a mortgage originator's license. Md. Code Ann., Fin. Inst. § 11-605(a)(3) (Supp. 2009).

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Commissioner of Financial Regulation deny the Applicant's renewal application for a mortgage originator's license.

August 25, 2010
Date Decision Mailed


Lorraine E. Fraser
Administrative Law Judge

LEF/tc
#116037